LeadingAge Wisconsin
Better Services for Better Aging

ISSUE: RETURN OF THE NURSING HOME BED TAX "SKIM"

LeadingAge Wisconsin Position: SUPPORT for the Return of the Entire $90 Million "Skim"

BACKGROUND: S. 50.14(2)(am), Wis. Stats., states that beginning in state fiscal year 2010-11, there is imposed on all licensed nursing home beds an assessment not to exceed $170 per calendar month "for the privilege of doing business in this state." This assessment is what is commonly referred to as the "nursing home bed tax." The nursing home bed tax has evolved dramatically since its inception in 1991-92, when a $32 per month tax was imposed on all occupied beds, excluding those beds occupied by residents whose care was paid for by Medicare. The shift to applying the bed tax to all licensed beds, without exclusions, was a federal edict imposed in 2002.

Initially, the funds generated by the nursing home bed tax were used as the State match to generate additional federal Medicaid dollars that were used to provide nursing homes with Medicaid rate increases. While the funding mechanism remains the same, the "rules to the game" as it relates to the distribution of the federal dollars changed under 2008 WI Act 28, the 2009-11 state budget. Not only did Act 28 more than double the bed tax, from $75/licensed bed/month to $150/licensed bed/month in 2009-10 and to the current $170/licensed bed/month level in 2010-11; for the first time, not all the federal Medicaid dollars generated by the bed tax increase were used to fund MA rate increases for nursing homes. While Act 28 provided a 2% Medicaid rate increase for nursing homes in each year of the 2009-11 biennium, over $170 million of the federal dollars generated by the more than doubling of the bed tax were used not for nursing home rate increases but to offset Medicaid base expenditures. This procedure is referred to as the nursing home bed tax "skim" and has been used by both Democrat and Republican Administrations to help balance the state budget. During the 2010 gubernatorial campaign, candidate Scott Walker said he considered the "use of bed tax payments made by facilities and residents for purposes other than improvement of resident care to be unethical."

The annual "skim" currently stands at an estimated $45 million all funds and is projected to remain near that $45 million level in 2013-14 and in 2014-15. Under 2013 Assembly Bill 40, the

204 South Hamilton Street | Madison WI 53703
P 608.255.7060 | F 608.255.7064 | www.LeadingAgeWI.org

2013-15 state budget bill, nursing homes would receive a 2% resident acuity adjustment in each year of the biennium, at a cost of $5.4 million GPR/$13.1 million AF in 2013-14 and $10.5 million GPR/$25.5 million AF in 2014-15. The biennial cost of the 2% resident acuity adjustment for nursing homes contained in 2013 AB 40 is $15.9 million GPR/$38.6 million AF.

While LeadingAge Wisconsin members are truly appreciative of the 2% resident acuity adjustment contained in 2013 AB 40, it should be noted that the budget proposal over the biennium only returns approximately 42.9% of the bed tax "skim" to the nursing homes generating the additional federal Medicaid revenues. ***For the sake of the residents they serve and the dedicated staff that provide care to those residents, LeadingAge Wisconsin members urge the Legislature to return the remainder of those "skim" dollars "for the improvement of resident care."***

After the proposed 2% acuity adjustment is provided to nursing facilities, the cost to return the remainder of the "skim" revenues over the 2013-15 biennium would be approximately $20.2 million GPR/$51.4 million AF.

ARGUMENTS IN SUPPORT OF RETURNING THE ENTIRE NURING HOME BED TAX "SKIM"

- Since the 2009-10 biennium, $260.5 million in federal Medicaid funds generated by the nursing home bed tax have been used for purposes other than nursing home resident care. LeadingAge Wisconsin members share the view expressed by others that this practice is unethical, particularly, as noted below, in light of the well-documented financial challenges facing nursing facilities.

- Nursing homes are facing financial peril. In the 2011-12 payment year (the last year for available data), 377 of the state's 381 nursing facilities were not fully reimbursed for the Medicaid costs they incurred. In the aggregate, this underfunding created a "Medicaid deficit" of $332.5 million; when Family Care losses are factored in, the combined Medicaid/Family Care deficit is $355.9 million, a 10.1% increase in the MA/FC deficit for nursing homes from the previous year. On average, a Wisconsin nursing home loses $51.96 each day for every MA/FC resident it serves. On an annual basis, the average nursing home spends $1.1 million more to provide care to its MA/FC residents than the government reimburses it for that care. Facilities historically have relied on private pay residents to subsidize their Medicaid losses. For many facilities, there simply aren't that many private pay residents: only 21% of nursing home residents are private payors, while 67% are funded through Medicaid/Family Care and 12% by Medicare. For those facilities fortunate enough to care for residents who are paying for their own care, the price of that care is quite hefty: while the average Wisconsin nursing home received a per diem MA rate of $152.96 in payment year 2011-12, private pay residents on average pay an estimated $90 per day above the MA rate for virtually the same care. The reason for that differential: to offset the facility's Medicaid losses. Medicare revenues also are used to offset Medicaid nursing home losses but that revenue stream also is drying up: Medicare expenditures for skilled nursing facilities (SNF) nationwide were cut $14 billion over a 10-year period in 2010, by an additional 12.6% for the average Wisconsin SNF in 2011, and will be reduced an additional 2% effective April 1, 2013 due to the federal sequestration cuts. In the past 10 years, over 40 Wisconsin nursing homes have closed, primarily due to insufficient reimbursement. If reimbursement does not improve, expect that number to grow.

- Approximately 70% of nursing home expenditures are labor-related. Direct care staff invariably is the last to feel the pinch but when funding options run dry, there may be nowhere else to turn. When that situation arises, a facility either cuts direct care staff or closes; neither occurrence is acceptable but for how much longer for many facilities will either be avoidable?

- LeadingAge Wisconsin members sincerely appreciate the Governor's recognition of the fiscal dilemma many facilities are facing through the 2% resident acuity adjustment provided in AB 40. However, that cannot erase the fact that the 2% acuity adjustment will not stem the mounting challenge facing providers whose Medicaid deficits on average increased in the 2011-12 rate year by 10.1%. Even with the full return of the $45 million annual/$90 million biennial "skim" in 2013-15, a significant portion of those additional dollars would go to "chasing deficits" and not to fund even cost-to-continue budgets, much less staff wage and benefit increases. Despite that, the full return of the nursing home bed tax "skim" would provide a needed start.

LeadingAge Wisconsin, formerly WAHSA, is a statewide membership association of not-for-profit organizations principally serving seniors and persons with a disability. Membership is comprised of 188 religious, fraternal, private and governmental organizations which own, operate and/or sponsor 185 nursing homes, 9 facilities for the developmentally disabled (FDD), 182 assisted living facilities, 114 apartment complexes for seniors, and over 300 community service agencies which provide programs ranging from Alzheimer's support, adult and child day care, home health, home care, and hospice to Meals on Wheels. LeadingAge Wisconsin members employ over 38,000 individuals who provide compassionate care and service to over 48,000 residents/tenants/clients each day. For more information, please contact John Sauer (jsauer@LeadingAgeWI.org), LeadingAge Wisconsin President/CEO, Tom Ramsey (tramsey@LeadingAgeWI.org), LeadingAge Wisconsin Vice President of Public Policy & Advocacy or Brian Schoeneck (bschoeneck@LeadingAgeWI.org), LeadingAge Wisconsin Vice President of Financial and Regulatory Services, at (608)-255-7060.

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